IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1466 OF 2005

Unnus Mahiboob Nadaf & Anr. ..Applicants.

V/s.

The State of Maharashtra ..Respondent.

Shri D.V. Satar with V.M. Thorat for the Applicants.
Shri R.Y. Mirza, APP for the Respondent - State.

CORAM : A.M.KHANWILKAR, J.
DATED : MARCH 03, 2005

PC :-

. Heard counsel for the parties. Perused the record.

2. This is the second bail application on behalf of the Applicant No.2. The first bail application was rejected on merits on 5th October, 2004. The evidence on record clearly indicates the participation of the applicant No.2 in the commission of the offence. The applicant No.2 was wielding cycle chain with which he assaulted the injured. As there is direct evidence to indicate complicity of the applicant No.2 and the offence being serious one, not a case for bail. Change of Advocate can be no change of circumstance to

entertain second bail application.

3. In so far as applicant No.1 is concerned, although he was not the applicant before this court in the earlier bail application; even against him there is direct material, as witnesses have named him, assaulting the injured with the help of knife, which was held by him. There is no reason to discard that evidence available on the record at this stage. In view of the seriousness of the offence, not a case for bail even for Applicant No.1. The other accused have been enlarged on bail on the finding that there is no satisfactory evidence that they had participated in the offence. However, the present applicants are concerned, there is direct evidence against them that they have participated in the commission of the offence.

4. Hence, application on behalf of both the applicants is rejected.

5. As prayer for bail is rejected, the District and Sessions Judge, Solapur is directed to assign the case to fast track court, if already not done, to ensure early disposal of the trial as High Court

expedited cases.

6. It is made clear that if the trial court is of the opinion that the applicants are responsible for delay of the trial in any manner, that opinion be recorded in the Rozanama, which can be taken into account as and when occasion arise.

7. Ordered accordingly.

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